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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE JACQUELINE SCOTT CORLEY, MAGISTRATE JUDGE

IN RE: FACEBOOK CONSUMER)
PRIVACY USER PROFILE)
LITIGATION,)
_____)

NO. 18-MD-02843 VC (JSC)

FRIDAY, APRIL 17, 2020

SAN FRANCISCO, CALIFORNIA

DISCOVERY STATUS CONFERENCE

TRANSCRIPT OF ZOOM PROCEEDINGS OF THE OFFICIAL ELECTRONIC SOUND
RECORDING 9:58 A.M. - 10:40 A.M.

APPEARANCES:

FOR PLAINTIFFS:

KELLER ROHRBACK LLP
1201 THIRD AVENUE, SUITE 3200
SEATTLE, WASHINGTON 98101
BY: DEREK W. LOESER, ESQUIRE
CARI LAUFENBERG, ESQUIRE
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555 12TH STREET, SUITE 1600
OAKLAND, CALIFORNIA 94607
BY: LESLEY E. WEAVER, ESQUIRE
MATTHEW MONTGOMERY, ESQUIRE
ANNE K. DAVIS, ESQUIRE

(APPEARANCES CONTINUED)

TRANSCRIBED BY:

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1 **THE COURT:** OKAY. SO THAT WAS MS. KUTSCHER WHO WAS
2 SPEAKING.

3 AND TO CONFIRM WHAT MR. LOESER SAID, NOTHING WAS WITHHELD
4 ON RELEVANCE GROUNDS; IS THAT CORRECT?

5 **MS. KUTSCHER:** WE DID NOT WITHHOLD MATERIALS ON
6 RELEVANCE GROUNDS, NO.

7 **MR. SNYDER:** AND, YOUR HONOR, JUST TO BE OF HELP TO
8 THE COURT, WE ALLUDED TO THIS IN OUR STATEMENTS, AND I REALLY
9 WELCOME THE NOT REHASHING THE PAST AND MOVING FORWARD
10 SENTIMENT, BECAUSE IN THIS CASE, AND I KNOW A LOT OF
11 DEFENDANTS SAY THIS, AND IF I WAS IN COURT I WOULD LOOK YOU IN
12 YOUR EYES AND SAY THIS, I WILL DO IT OVER ZOOM, WHICH IS THAT
13 WE, FACEBOOK, RECEIVED A VERY FAVORABLE MOTION TO DISMISS
14 DECISION FROM JUDGE CHHABRIA WHO IDENTIFIED FOUR SORT OF LIVE
15 ISSUES IN THE CASE.

16 AND WE, FACEBOOK, HAVE BEEN TRYING TO EXPEDITE DISCOVERY
17 BECAUSE WE ARE EAGER TO GET TO THE SUMMARY JUDGMENT AND CLASS
18 CERTIFICATION PHASE. SO WE ARE NOT -- HAVE ANY INTEREST, LIKE
19 SOME DEFENDANTS MIGHT IN OTHER CASES, DRAGGING OUR FEET AND WE
20 REALLY WELCOME, YOU KNOW, EVERY TWO WEEKS SITTING DOWN AND
21 MOVING THIS FORWARD.

22 THE REASON WE PRODUCED ALL THOSE FTC DOCUMENTS IS BECAUSE
23 PLAINTIFFS' COUNSEL AT THE OUTSET SAID WHY DON'T WE JUST
24 PRODUCE ALL THE FTC DOCUMENTS; WON'T THAT BE MOST OF WHAT IS
25 RELEVANT IN THE CASE.

1 GUYS COME UP WITH WHAT THE TIME IS. AND IT MAY BE FOR A LONG
2 TIME. AND LET'S DO THAT SO THAT NO ONE NEEDS TO FEEL LIKE
3 THEY ARE CHASING THE OTHER DOWN OR THEY ARE GETTING BOMBARDED
4 OR ANYTHING ELSE.

5 SO WE ARE GOING TO FOCUS ON THAT ESI PROTOCOL. WE'RE
6 GOING TO FOCUS ON THE CUSTODIANS. AND LET'S START TALKING
7 ABOUT -- AND DEFENDANTS, YOU KNOW, INFORMALLY, BUT SAYING THIS
8 IS WHERE WE UNDERSTAND THESE RESIDE. THIS IS WHERE WE
9 UNDERSTAND THE PLAINTIFFS -- THE NAMED PLAINTIFFS, RIGHT,
10 THEIR FILES OR WHATEVER. I KNOW THAT'S A QUESTION THE
11 PLAINTIFFS HAD. JUST START TALKING ABOUT WHAT YOU KNOW AND
12 THAT -- YOU KNOW, WHERE YOU CAN GET THAT, AND FIGURE THAT OUT.
13 AND THEN... AND THEN ALSO THE ESI PROTOCOL.

14 I THINK MAYBE... WELL, THEN THERE'S THESE OTHER THINGS.
15 YOU CAN TELL ME, DEFENDANTS, FOR EXAMPLE, THE PRICEWATERHOUSE,
16 THE UNDERLYING DOCUMENTS UNDERLYING THE REPORT, IS THAT
17 SOMETHING WE CAN PUT INTO THESE DISCUSSIONS AS WELL?

18 **MR. SNYDER:** I MEAN, WE --

19 (SIMULTANEOUS COLLOQUY.)

20 **MR. SNYDER:** GO AHEAD, MARTIE.

21 **MS. STEIN:** THIS IS DEBORAH STEIN. THANK YOU, YOUR
22 HONOR.

23 SO THERE ARE, I THINK, A NUMBER OF CATEGORIES WHERE THAT
24 MAY SOUND EASY, BUT ACTUALLY HAVE A LOT OF CHALLENGES
25 ASSOCIATED WITH THEM.

1 **MS. WEAVER:** YOUR HONOR? THIS IS LESLEY WEAVER. ONE
2 QUESTION.

3 FOR THE SUBMISSION, IT MIGHT HELP THE PARTIES IF WE HAD A
4 LITTLE MORE GUIDANCE AND, FRANKLY, WE DON'T CARE WHAT IT IS,
5 BUT --

6 **THE COURT:** YES.

7 **MS. WEAVER:** -- WE SHOULD EXCHANGE ON A CERTAIN DATE.
8 DO YOU WANT ATTACHMENTS? AND WHAT SHOULD THE LENGTH OF THE
9 DOCUMENT BE? I THINK THAT WOULD MAKE US ALL HAPPY.

10 **THE COURT:** SURE.

11 SO WHAT I WOULD LIKE IT TO BE IS, WE IDENTIFIED FOUR
12 AREAS, RIGHT? THE ESI PROTOCOL -- HOPEFULLY WHAT THAT -- AND
13 THAT SHOULD BE ONE PARAGRAPH AT THE MOST, WHICH IS, WE
14 SUBMITTED OUR STIPULATION BY APRIL 24TH OR WE SUBMITTED OUR
15 STIPULATION WITH -- AND THEN ON APRIL WITH -- ON APRIL 27TH A
16 FEW, VERY FEW AREAS OF DISAGREEMENT.

17 THE SECOND WILL BE, WE'VE RESOLVED ALL THE CUSTODIANS AND
18 THESE ARE CUSTODIANS, OR THIS IS WHERE WE'RE AT. RIGHT? AND
19 EACH SIDE, MAYBE IT'S JUST ONE PARAGRAPH, TWO AT THE MOST.

20 THREE WILL BE, THESE ARE THE DISCUSSIONS WE'VE HAD ON
21 WHERE THE ESI RESIDES, HOW IT IS STORED, WHAT IT IS WITH THAT.
22 THIS IS OUR PLAN GOING FORWARD. MAYBE WE ARE GOING TO HAVE
23 OUR EXPERT TALK TO SOMEONE IN-HOUSE AT FACEBOOK OR WHATEVER.
24 IT CAN BE DONE INFORMALLY IN A WAY THAT GETS YOU THAT
25 INFORMATION BEFORE RESORTING TO THAT 30(B)(6).